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**JAN 30 2013**

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CLERK, U.S. DISTRICT COURT  
DISTRICT OF MONTANA  
MISSOULA

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
Missoula Division**

Stephanie M Schroeder,	) Case No.:9:12-CV-00132-DLC-JCL
Plaintiff,	) SWORN OBJECTION TO COURT
vs.	) ORDERS STIPULATION OF FACT
Bank of America, A/K/A FIA CARD	) and Motion to Strike
SERVICES N.A.,	)
Defendant.	)
	/

**A. INTRODUCTION**

COMES NOW the Plaintiff, and objects to this Court's January 22, 2013, Order of stipulated facts and moves for an order striking these facts. Plaintiff was confused and unaware of the proceedings and what the opposing counsel and the Magistrate Lynch were alluding to. Plaintiff has tried to contact Defendants counsel, and counsel has not responded, therefore Plaintiff assumes this is opposed.

**B. PLAINTIFF'S FACTUAL CLAIMS**

A Fed. R. Civ. P 26(f) conference was held on January 22, 2013. Plaintiff has never been to one of these proceedings, was unaware as to what was supposed to happen and thought it was a scheduling conference and not an evidentiary conference.

Plaintiff was taken off guard when this court inquired about the judgment account. Plaintiff may have inadvertently stated the account at issue was the account the judgment was for. Plaintiff is without funds to obtain transcripts of the 26f conference.

After reading this court's order of stipulation of facts, it has come to Plaintiff's attention that these facts are incorrect. The facts are set forth below:

Plaintiff has been victimized by false credit reporting published by Bank of America, in her lawsuit captioned above. That her credit reports repeatedly listed the inaccurate Bank of America account, beginning in "4888." That her legitimate Bank of America account, for which judgment was found, begins in "4427" and has no connection whatsoever to the falsely reported account beginning in "4888." That she did not apply for the account at issue (beginning in numbers (4888). That her legitimate Bank of America account is numbered 4427 for which judgment was entered. Plaintiff has never had any connection to the account at issue, Bank of America account, beginning in numbers 4888. Plaintiff has no comprehension why Bank of America reported account number, beginning in numbers 4888. Plaintiff never signed any application giving rise to the Bank of America account, beginning in numbers 4888. Plaintiff does not know to whom Bank of America issued its account beginning in numbers 4888. Bank of America did, however, report false information about her and attributed Bank of America account number, beginning in numbers 4888 and other trade data to plaintiff. *See Declaration supra.*

#### C. LEGAL ARGUMENT

Courts have held when a stipulation to a crucial fact is entered into the record in open court in the presence of the [plaintiff], and is agreed to by [plaintiff]'s acknowledged counsel, the trial court may reasonably assume that the [plaintiff] is aware of the content of the stipulation and agrees to it through his or her attorney. Unless a [party] indicates objection at the time the stipulation is made, he or she is ordinarily bound by such stipulation. *See, See United States v. Ferreboeuf*, 632 F.2d 832, 836 (9th Cir.1980) *citing e.g., United States v. Adams*, 422 F.2d 515, 518 (10th Cir.) (dictum), *cert. denied*, 399 U.S. 913, 90 S.Ct. 2213, 26 L.Ed.2d 569 (1970); *Taylor v. United States*, 182 F.2d 473, 475 (9th Cir. 1950) (dictum); *United States v. Denniston*, 89 F.2d 696, 698 (2d Cir.) (guilty plea), *cert. denied*, 301 U.S. 709, 57 S.Ct. 943, 81 L.Ed. 1362 (1937); *Jones v. United States*, 72 F.2d 873, 874 (7th Cir. 1934) (stipulation of fact)

#### D. CONCLUSION

Plaintiff, Stephanie M. Schroeder, objects to these stipulation of facts entered by this court's order on January 22, 2013. Plaintiff may have been confused as to what this court and Defendant's counsel were trying to get out of plaintiff. Plaintiff does concede to the fact that Plaintiff opened an account with Defendant, and Defendant obtained judgment on said account.

WHEREFORE, Plaintiff moves the court to strike the stipulation of facts entered in the court's January 22, 2013 order at section 4. a and b and amend as:

- a. Plaintiff opened a credit card with Bank of America and is liable for the underlying debt.
- b. A judgment was obtained in Flathead County in connection to a credit card account from FIA Card Services N.A on May 2, 2011 in the amount of \$13,438.87.

And for any and other relief this court deems fair and just under the circumstances.

#### DECLARATION

I, Stephanie M. Schroeder, declare under penalties of perjury under the Laws of United States, (28 USC § 1746) that the factual assertions made above in section B is true and accurate as made known to me by reviewing my consumer credit reports from Transunion, Equifax and Experian, which can be reviewed by the Defendant through Discovery.

Respectfully submitted this 29<sup>th</sup> Day of January, 2013.



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CERTIFICATE OF SERVICE

I, Stephanie M. Schroeder, hereby certify that a copy of the forgoing Plaintiff's objection to the Court's order of Stipulation of Facts and Motion to Strike by U.S postage prepaid on this 29<sup>th</sup> day of January, 2013 to DANIELLE A. R. COFFMAN, P.O. Box 759, Kalispell, MT 59903-0759.

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